

Michigan IV-D Child Support Manual
Department of Health and Human Services

Publication/ Revision Date: July 2, 2018	Chapter Number: 3.0	Chapter Title: Case Management
	Section Number: 3.55	Section Title: Hearings

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1. Overview

Federal regulations¹ and state laws² governing assistance programs provide every assistance applicant/recipient with the right to an administrative hearing to contest the denial, reduction or termination of assistance by the Michigan Department of Health and Human Services (MDHHS). The IV-D program is part of the hearing process when the assistance applicant/recipient requesting the hearing is the custodial party (CP)³ on a child support case, and the hearing request is the result of a child support issue.

An administrative hearing is an impartial review by an administrative law judge (ALJ) of a departmental decision that a CP believes is incorrect. At the hearing, both the CP and MDHHS have an opportunity to present evidence in support of their respective positions. The ALJ determines the facts based on the evidence presented and applies the appropriate policy and law to those facts to arrive at the department's final position on the matter in dispute.⁴

¹ 7 Code of Federal Regulations (CFR) 273.15; 42 CFR 431.200 – 431.246; 45 CFR 205.10

² Michigan Compiled Law (MCL) 400.9; MCL 400.37; MCL 400.65

³ For the purposes of this policy, the term “CP” replaces the term “assistance applicant/recipient.”

⁴ Procedures for conducting administrative hearings are in the Administrative Procedures Act, MCL 24.271 – 24.276.

1.1 Responsibility for Administrative Hearings – Michigan Administrative Hearing System (MAHS)

MAHS is an independent and autonomous agency within the Department of Licensing and Regulatory Affairs (LARA) established through Executive Order 2011-4. MAHS is a central panel of hearing officers and ALJs and provides hearings for most agencies within state government. MAHS staff are responsible for the administrative hearing process, the hearing decision, and notification of the decision to the correct department.

1.2 Legal Basis for the Hearing Process

The Michigan Administrative Code (MAC)⁵ and the Administrative Procedures Act⁶ specify the rules for the conduct of hearings within MDHHS. These rules provide the CP and his/her authorized hearing representative (AHR)⁷ with rights to:

- Examine any document and record that the local MDHHS Assistance Program (AP) Hearings Coordinator will use as evidence at the hearing. The local MDHHS AP Hearings Coordinator must provide access to those documents/records at a reasonable time before and during the hearing; and
- Question or refute any testimony or evidence and to cross-examine adverse witnesses and the author of any document offered into evidence.

1.3 Standards of Promptness for MDHHS Assistance Programs

The standard of promptness begins on the date the hearing request⁸ is received by any local MDHHS AP Hearings Coordinator or MDHHS central office. Final action on hearing requests, including implementation of the decision and order, must occur within the specific timeframes detailed below:

1.3.1 Food Assistance Program (FAP)-Only Cases

Final action must be completed on hearing requests involving FAP-only cases or FAP and a state program (e.g., State Disability Assistance [SDA], State Emergency Relief [SER]) within 60 days of receipt of the written or oral request.

⁵ R 400.901 – 400.951 MAC

⁶ Administrative Procedures Act, MCL 24.271 – 24.287

⁷ A hearing request with a CP's signature may name an AHR with authorization to stand in for or represent the CP in the hearing process. Ref: the MDHHS [Bridges Administrative Manual, BAM 600, Hearings](#).

⁸ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, for the process to request a hearing.

1.3.2 All Other MDHHS Assistance Programs

For all other programs, final action on hearing requests, including implementation of the decision and order, must be completed within 90 days of receipt of the written request.

2. The Hearing Request

A CP may request a hearing after receiving a notice of negative action⁹ on his/her assistance case. The notice of negative action will provide the CP with information on his/her right to an administrative hearing, which includes how and where to file a hearing request. The following people have authority to request a hearing:

- An adult member of the eligible group; or
- The client's (CP's) AHR.

Requests for a hearing must be made in writing¹⁰ and signed by one of the persons listed above. A *Request for Hearing* (DHS-18) may be used but is not required. The CP/AHR has 90 calendar days from the date of the written notice of negative action to request a hearing.

The hearing request may be delivered, mailed or faxed to the local office MDHHS AP Hearings Coordinator. Each MDHHS local office is required to have an AP Hearings Coordinator. The AP Hearings Coordinator acts as a liaison with MAHS. The AP Hearings Coordinator's tasks include:

- Receiving, logging, and tracking administrative hearing notices and documents from MAHS;
- Receiving hearing requests from the CP/AHR and hearing notifications and schedules from MAHS and forwarding them to the:
 - MDHHS Hearings Facilitator (who represents MDHHS at the hearings);
 - MDHHS family independence specialist/eligibility specialist (FIS/ES);
 - MDHHS first-line supervisor; and
 - Department manager.
- Monitoring compliance with timeframes as required by MAHS for the completion and submission of hearing summaries and hearing withdrawals, and for the verification of MDHHS compliance with hearing results;
- Submitting hearing summaries and hearing withdrawals to MAHS; and
- Ensuring the first-line supervisor and department managers review and authorize hearing requests, summaries, and notices of compliance with the hearing decisions.

⁹ A negative action is an action taken by MDHHS to deny an application or to reduce or terminate a benefit. Ref: [Bridges Administrative Manual, BAM 220, Case Actions](#).

¹⁰ For FAP-only cases, verbal requests for a hearing are accepted.

A list of MDHHS AP Hearings Coordinators by county can be accessed on the [MDHHS intranet](#).

The AP Hearings Coordinator has 21 days from receipt of a hearing request to do all of the following:¹¹

- Log the request;
- Determine the nature of the complaint;
- Obtain and submit to MAHS a verification of the AHR's prior authorization, if needed;
- Contact partners within 24 hours of receiving a hearing request. Partners may include an MDHHS first-line supervisor, Office of Child Support (OCS) staff, Friend of the Court (FOC) staff, Prosecuting Attorney (PA) staff, Office of Quality Assurance auditors, PATH¹² representatives, the local FIS/ES, or Office of the Inspector General staff; and
- Schedule a meaningful in-person prehearing conference for the CP/AHR no later than the 11th calendar day from the receipt of the hearing request (or within 14 calendar days if the 11th calendar day is a non-work day).

When a negative action is due to a noncooperation determination made by OCS or an FOC/PA office, the AP Hearings Coordinator will fax an *MDHHS to OCS Hearing Related Information Fax Cover Sheet*¹³ (DHS-884) to the respective IV-D office, along with all of the following:

- A copy of the hearing request;
- The contact information for the local office AP Hearings Coordinator, the MDHHS Hearings Facilitator, the MDHHS first-line supervisor, and the FIS/ES; and
- The date and time of the prehearing conference.

Hearing information involving PA staff will be faxed to the general PA fax phone number posted on the [Partner Contact Information](#) page on mi-support.

Hearing information involving OCS will be sent to the OCS Hearings Coordinator via fax at (517) 241-0844 or email at MDHHS-OCS-Admin-Hearings@michigan.gov.

Note: The MAHS Tracking System automatically emails the hearing request and the decision and order to the OCS Hearings Coordinator's email address when a hearing request relates to child support cooperation requirements.

¹¹ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection "Standards of Promptness."

¹² PATH stands for Partnership. Accountability. Training. Hope.

¹³ The DHS-884 is expected to be added to the *Bridges Administrative Manual*, BAM 600, *Hearings*, with the September 2018 update.

3. Prehearing Conference

3.1 Purpose of the Prehearing Conference

Prehearing conferences may quickly identify easy resolutions to the negative action. Also, resolving issues prior to a formal hearing results in significant cost savings to the State of Michigan.

Prehearing conferences must be meaningful. The *Bridges Administrative Manual*, BAM 600, *Hearings* defines a meaningful prehearing conference as one where MDHHS staff:

- Determine why the CP or AHR is disputing MDHHS's action;
- Review any documentation the CP/AHR has in support of his/her allegation; and
- Explain the position of MDHHS and discuss how it is different from the position of the CP/AHR.

IV-D worker participation in the prehearing conference and the hearing is necessary to provide testimony and supportive evidence for the action taken on a case.

3.2 Scheduling the Prehearing Conference

The AP Hearings Coordinator must schedule a meaningful in-person prehearing conference with an MDHHS first-line supervisor no later than the 11th calendar day from the receipt of the hearing request (or within 14 calendar days if the 11th calendar day is a non-work day).

The AP Hearings Coordinator is responsible for contacting the appropriate staff to discuss the hearing request and participation in the prehearing conference. IV-D workers must attend any prehearing conference or hearing that concerns:

- An action on an assistance case resulting from a IV-D worker decision that a CP is not cooperating with the child support program; or
- A recommendation that a good cause claim be denied.

Once IV-D workers receive a DHS-884 from MDHHS, they will provide the *Michigan IV-D Child Support Program Explanation of Noncooperation Determination* (MDHHS-5437)¹⁴ to the AP Hearings Coordinator within **five calendar days**. If a IV-D worker receives the DHS-884 fewer than five calendar days before a prehearing conference, IV-D staff will attempt to send the MDHHS-5437 before the prehearing conference is conducted. The MDHHS-5437 includes:

¹⁴ The MDHHS-5437 is expected to be included in the September 2018 update to the *Bridges Administrative Manual*, BAM 600, *Hearings*.

- The date and reason(s) why the CP was found to be noncooperative;
- A copy of the notice(s) and other pertinent documentation;
- The steps the CP must take to become cooperative; and
- The contact information of the IV-D worker providing the information.

Note: The CP may decide not to exercise his/her right to a prehearing conference.

3.3 Prehearing Conference Decision

If the disputed action is resolved in the prehearing conference, the CP/AHR will sign the *Hearing Request Withdrawal In-Person* (DHS-18M) or a *Hearing Request Withdrawal* (DHS-18A) after the prehearing conference. These forms will stop the hearing process and eliminate the need for a formal hearing. The AP Hearings Coordinator will fax or email a copy of the signed DHS-18M or DHS-18A to the IV-D worker.

If the disputed action is not resolved in the prehearing conference, the AP Hearings Coordinator must fax the DHS-884 to the IV-D office a second time with the following information:

- A copy of the Notice of Hearing;
- The date and time of the scheduled hearing; and
- A copy of the prehearing decision.

In addition, the AP Hearings Coordinator must send all the following to MAHS by interdepartmental mail or U.S. Mail within 21 days of receipt of the hearing request:

- The DHS-18;
- Any required verification of authority to represent;
- The *Hearing Summary* (DHS-3050); and
- A complete prehearing packet.¹⁵

4. Hearings

Administrative hearings on disqualifications due to findings of child support noncooperation are the most common support-related hearings. The IV-D worker serves as a witness for MDHHS at those hearings. Noncooperation determinations are of a subjective nature and may not be upheld despite the IV-D worker's clear and thorough job in presenting the case. This does not mean that the IV-D worker was incorrect in the determination or that the IV-D worker should decide differently

¹⁵ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection "Standards of Promptness, Local Office Time Limits."

under similar circumstances in the future. Each hearing is decided individually and sets no precedent. However, if IV-D policy changes are identified and necessary, those changes will be addressed as soon as possible.

4.1 Access to Child Support Records

When informed of a hearing request, the IV-D worker must promptly provide the AP Hearings Coordinator with documents and records that will be offered into evidence at the hearing. Prior to the hearing, the AP Hearings Coordinator must provide relied-upon evidence to both MAHS and the CP/AHR. The AP Hearings Coordinator must allow the CP/AHR to examine any record or document that will be used as evidence at the administrative hearing. The CP/AHR has the right to cross-examine the author of a support document offered as evidence at a hearing.

4.2 Format

The ALJ must review proposed evidence and determine the admissibility of the exhibits. The admission of exhibits is not automatic, and the ALJ must allow parties an opportunity to object to the admission. The CP/AHR has a right to examine all documents before their admittance into the record.¹⁶

At the hearing, the ALJ will open with a preliminary statement. The ALJ will:

- Explain to the CP the basis for the hearing and his/her rights;
- Read the CP's request into the record; and
- Verify that the CP requested the hearing.

The MDHHS Hearings Facilitator must explain the basis for the action contested by the CP/AHR. Witnesses will be sworn in. Both the MDHHS witnesses and the CP's witnesses may be cross-examined. All participants must answer questions truthfully and directly. All participants must answer questions verbally since all administrative hearings are recorded. If a question appears improper or irrelevant, the MDHHS Hearings Facilitator may ask the ALJ to make a ruling on the question. The ALJ's decision on the question is binding. In addition, the ALJ's decision on the negative action is binding.

4.3 IV-D Worker Role at Hearings

An ALJ bases his/her decision on the documents and testimony presented as evidence at the hearing. Therefore, the IV-D worker must identify the sequence of events that led to the finding of noncooperation. The IV-D worker must provide documentation of the information and/or action requested of the CP and documented evidence that the CP knew or could have obtained the information or complied with the requested action.

¹⁶ All administrative hearings are audio-recorded.

The IV-D worker serves as a witness for MDHHS in hearings involving child support issues. As a witness, the IV-D worker must be prepared to:

4.3.1 Cite Appropriate References

The IV-D worker will cite policy references, federal regulations and legal citations applicable to the issue(s) and read relevant policy sections and legal citations into the record.

4.3.2 Testify About Facts in the Case

This includes first-hand knowledge, general practices, and information obtained from third-party sources.

4.3.3 Provide Evidence

The IV-D worker will introduce into evidence any document that supports the facts of the noncooperation finding. The type of documentation needed will depend on the specific situation. Examples of appropriate documentation include, but are not limited to, the following:

- Contact letters to the CP;
- *Noncooperation Notice* (OCS1252) and other related correspondence with the CP;
- Narrative entries in the case history regarding CP interviews;
- Copies of court judgments;
- Copies of DNA¹⁷ test results (i.e., a written summary report submitted to a IV-D worker or court from a laboratory or expert witness);
- Non-custodial parent location records; and
- Signed and dated supporting statements from third parties.

The IV-D worker must also provide the ALJ with requested information from the IV-D case record. If, however, the requested information is confidential and does not appear to be pertinent to the issues in the case, IV-D staff must first inform the judge of safeguarding requirements.¹⁸

5. Hearing Decision and Compliance

5.1 The Decision

The ALJ will issue an administrative hearing decision within 60 days of the hearing. The ALJ will send the CP/AHR and the AP Hearings Coordinator a

¹⁷ Deoxyribonucleic acid (DNA)

¹⁸ Ref: [Section 1.10, "Confidentiality/Security," in the Michigan IV-D Child Support Manual.](#)

written administrative hearing decision. If the ALJ finds in favor of the CP, the AP Hearings Coordinator must comply with the hearing decision within 10 days from the mailing date of the decision to the local office.¹⁹ Also, within those 10 days, the AP Hearings Coordinator must submit a certification to MAHS indicating that the necessary action occurred or explaining why the action was not completed.

When an ALJ issues a hearing decision that directly affects a IV-D case, the AP Hearings Coordinator is required to send a copy of the decision to the IV-D worker within 24 hours of receipt. Within 10 days of receipt, the IV-D worker will comply and provide notice of compliance to the AP Hearings Coordinator. When a hearing decision affects the IV-D noncooperation status, the IV-D worker must make the appropriate changes to the child support action. The IV-D worker will also note, on the MiCSES²⁰ *Notes Processor* (NOTE) screen, that the change in action is due to the decision rendered by the ALJ in an administrative hearing.

An administrative hearing decision does not prevent IV-D staff from continuing to take necessary action on a IV-D case. For example, a hearing decision that a determination of noncooperation was inappropriate does not apply to any other case, nor does it absolve the CP from a requirement to continue to cooperate to establish paternity and/or a child support order. A IV-D case must not close solely based on the results of an administrative hearing.

If a question arises as to the validity or appropriateness of an administrative hearing decision related to a child support case, IV-D staff should request clarification through their supervisor.

5.2 Contesting the Decision

After the hearing, the ALJ will send the CP/AHR and the AP Hearings Coordinator a written hearing decision to notify them of the results. When the AP Hearings Coordinator receives the decision, many actions may be required.

If a hearing decision appears to contradict policy or does not represent the facts presented at the hearing, the MDHHS Hearings Facilitator or the CP/AHR may request a rehearing or a reconsideration.²¹

5.2.1 Rehearing and Reconsideration

The *Bridges Administrative Manual*, BAM 600, *Hearings*, defines “rehearing” and “reconsideration”:

¹⁹ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection “Hearing Decisions.”

²⁰ MiCSES is the Michigan Child Support Enforcement System.

²¹ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection “Rehearing/Reconsideration.”

A **rehearing** is a full hearing that is granted when:

- The original hearing record is inadequate for purposes of judicial review; and/or
- There is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision.

A **reconsideration** is a paper review of the facts, law, and any new evidence or legal arguments. It occurs when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues raised in the hearing request.

The CP/AHR or MDHHS Hearings Facilitator must request a rehearing or reconsideration in writing. Requests for a rehearing or reconsideration must be submitted to MAHS within 30 calendar days of the mailing date of the hearing decision.²²

5.2.2 CP/AHR Procedures for a Rehearing or Reconsideration Request

When the CP/AHR requests a rehearing or reconsideration:

- The CP/AHR must submit a written request for a rehearing or reconsideration to the AP Hearings Coordinator, specifying the reasons for the request; and
- The AP Hearings Coordinator must fax the request to MAHS at (517) 335-6088 with the text “Attention: MAHS Client Requested Rehearing/Reconsideration.”

5.2.3 IV-D Office Procedures for a Rehearing or Reconsideration Request

OCS staff will submit requests for a rehearing or reconsideration to the OCS Operations Case Management Section Manager for consideration. PA offices will use the appropriate local authorization procedures before submitting a request for a rehearing or reconsideration.

Upon determining that the request for rehearing or reconsideration is appropriate, the OCS Operations Case Management Section Manager or the PA office must send a written request for a rehearing or reconsideration to the Field Program Policy office. The written request must include all of the following:

- A copy of the decision;

²² Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection “Rehearing/Reconsideration.”

- A copy of the DHS-3050 and all the evidence presented at the hearing; and
- An explanation why a rehearing or reconsideration is appropriate.

The OCS Operations Case Management Section Manager or the PA office must send the request to:

Field Program Policy, Central Office
Grand Tower Building, Suite 1402
PO Box 30037
Lansing, MI 48909

Or fax the request to:
(517) 241-7570

The Field Program Policy office staff will notify all parties, including MAHS and the CP/AHR, of their decision regarding the request.

5.2.4 Decision to Grant or Deny Rehearing/Reconsideration Requests

MAHS staff make the decision to approve or deny a rehearing or reconsideration request. MAHS staff will grant a rehearing/reconsideration request if:

- The information in the request justifies it; and
- There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness.²³

A. Reconsideration Granted

When MAHS staff grant a reconsideration, the hearing decision may change without another hearing unless there is a need for further testimony.

B. Rehearing Granted

When MAHS staff grant a rehearing, or if the need for further testimony changes a reconsideration to a rehearing, MAHS staff will schedule and conduct the hearing in the same manner as the original hearing.

²³ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection "Rehearing/Reconsideration."

5.2.5 Court Appeals

The CP/AHR may appeal an administrative hearing decision to the circuit court (or probate court for adoption subsidy cases) within 30 days of receipt of the decision.²⁴

During an appeal, the administrative hearing decision must be implemented unless the court orders otherwise. The MDHHS Bureau of Legal Affairs and Attorney General staff will provide instructions when such an order is issued.²⁵

SUPPORTING REFERENCES:

Federal

7 CFR 273.15

42 CFR 431.200 – 431.246

45 CFR 205.10

45 CFR 213.1 – 213.33

State

MCL 24.271 – 24.287

MCL 400.9

MCL 400.37

MCL 400.65

R 400.901 – 400.951 MAC

*Bridges Administrative Manual, BAM 220,
Case Actions*

*Bridges Administrative Manual, BAM 600,
Hearings*

REVISION HISTORY:

[IV-D Memorandum 2018-010](#)

IV-D Memorandum 2012-003

IV-D Memorandum 2010-018

²⁴ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection “Hearing Decisions.”

²⁵ Ref: *Bridges Administrative Manual*, BAM 600, *Hearings*, subsection “Rehearing/Reconsideration.”